

PATENT COOPERATION TREATY

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From the INTERNATIONAL SEARCHING AUTHORITY

FOR

BY

PCT

BARNES & THORNBURG

To:

BARNES & THORNBURG
Attn. Conard, Richard D.
11 South Meridian Street
Indianapolis, IN 46204
UNITED STATES OF AMERICA

DATE

CHECKED BY

DATE

1/24/04

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing
(day/month/year)

19/01/2004

Applicant's or agent's file reference

7175-73373

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US 03/28733

International filing date
(day/month/year)

11/09/2003

Applicant

HILL-ROM SERVICES, INC.

1. ☐ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☒ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within **20 months** from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
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Authorized officer

Elisabeth Vonk

PATENT COOPERATION TREATY

PCT

DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and Rule 39)

Applicant's or agent's file reference 7175-73373	IMPORTANT DECLARATION	Date of mailing(day/month/year) 19/01/2004
International application No. PCT/US 03/28733	International filing date(day/month/year) 11/09/2003	(Earliest) Priority date(day/month/year) 12/09/2002
International Patent Classification (IPC) or both national classification and IPC		A61M16/00, G01N33/00
Applicant HILL-ROM SERVICES, INC.		


This International Searching Authority hereby declares, according to Article 17(2)(a), that **no international search report will be established** on the international application for the reasons indicated below

1. ☐ The subject matter of the international application relates to:
 - a. ☐ scientific theories.
 - b. ☐ mathematical theories
 - c. ☐ plant varieties.
 - d. ☐ animal varieties.
 - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
 - f. ☐ schemes, rules or methods of doing business.
 - g. ☐ schemes, rules or methods of performing purely mental acts.
 - h. ☐ schemes, rules or methods of playing games.
 - i. ☐ methods for treatment of the human body by surgery or therapy.
 - j. ☐ methods for treatment of the animal body by surgery or therapy.
 - k. ☐ diagnostic methods practised on the human or animal body.
 - l. ☐ mere presentations of information.
 - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☒ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:

☐ the description
☒ the claims
☐ the drawings
3. ☐ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:

☐ the written form has not been furnished or does not comply with the standard.
 ☐ the computer readable form has not been furnished or does not comply with the standard.
4. Further comments:

See additional sheet

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer Elisabeth Vonk
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FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

Claims 1, 11, 22, 29, 30, 32, 33, 34, 35, 45, 56, 63, 64, 65 and 66 have been drafted as separate independent claims.

Several of these independent claims seem to refer to similar apparatus, but vary in actual subject matter by the addition or omission of technical features or the use of different terms. Furthermore, because of shifting combinations of similar technical features between the subsets of claims depending from each independent claim, it is impracticable to clearly separate distinct inventions.

For these reasons, it is difficult, if not impossible, to determine the matter for which protection is sought. The matter for which protection is sought is also not clearly defined. The claims attempt to define the subject matter in terms of result to be achieved which merely amounts to a statement of the underlying problem.

In view of the large number and also the wording of the claims presently on file, which render it difficult, if not impossible, to determine the matter for which protection is sought, the present application fails to comply with the clarity and conciseness requirements of Article 6 PCT (see also Rule 6.1(a) PCT) to such an extent that a meaningful search is impossible. Consequently, no search report can be established for the present application.

No formal objection under Rule 13 PCT (unity of invention) has been raised at this point because of the above mentioned clarity and conciseness objection. However, it could be that several independent or dependent claims define inventions which are not so linked so as to form a single inventive concept and the attention of the applicant is thus drawn to this point.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.